Supreme Court, U.S.
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No. _____

In The

Supreme Court of the United States

October Term, 1994

NORWOOD JOSEPH MECHE,

Petitioner,

versus

DAISY THIBODEAUX MECHE,

Respondent.

On Petition For Writ Of Certiorari To The Louisiana Supreme Court

PETITION FOR WRIT OF CERTIORARI

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51 pp

I. QUESTION PRESENTED FOR REVIEW

The question presented for review in this case is:

Whether the decisions below, (1) the judgment of the Ninth Judicial District Court, Rapides Parish, Louisiana, of May 13, 1993, (2) the judgment of the Louisiana Third Circuit Court of Appeal of April 6, 1994, and (3) the denial of writs by the Louisiana Supreme Court of June 24, 1994, improperly applied 10 U.S.C. § 1408(c)(1) and thus deprived Norwood Joseph Meche of a large portion of his military retired pay.

II. LIST OF ALL INTERESTED PARTIES

Petitioner: Norwood Joseph Meche

Respondent: Daisy Thibodeaux Meche

III. TABLE OF CONTENTS

Page

I. QUESTION PRESENTED FOR REVIEW..... i

II. LIST OF ALL INTERESTED PARTIES..... ii

III. TABLE OF CONTENTS iii

IV. TABLE OF AUTHORITIES iv

V. REFERENCES TO OFFICIAL AND UNOFFICIAL OPINIONS BELOW 1

VI. JURISDICTION OF THE COURT 1

VII. THE APPLICABLE STATUTE..... 1

VIII. STATEMENT OF THE CASE 2

IX. ARGUMENT AND AUTHORITIES 7

X. CONCLUSION..... 17

APPENDIX .....App. 1

A. Meche v. Meche, 93-1045 (La. App. 3 Cir. 4/6/94); 635 So.2d 614 .....App. 1

B. Judgment from the Ninth Judicial District Court, Rapides Parish, Louisiana, Honorable Judge B. Dexter Ryland, May 13, 1993 .....App. 8

C. Reasons for Judgment from the Ninth Judicial District Court, Rapides Parish, Louisiana, Honorable Judge B. Dexter Ryland, February 12, 1993.....App. 12

D. Meche v. Meche, 94-1174 (La. 6/24/94) ....App. 14

E. Partial Settlement of Community, dated October 31, 1981.....App. 15

F. Stipulation accompanying cross-motions for summary judgment in trial court .....App. 21

G. Judgment of Separation, Ninth Judicial District Court, Rapides Parish, Louisiana, Honorable Richard E. Lee, May 4, 1981 .....App. 24

IV. TABLE OF AUTHORITIES

Page

JURISPRUDENCE

UNITED STATES SUPREME COURT

McCarty v. McCarty, 453 U.S. 210, 101 S.Ct. 2728, 69 L.Ed.2d 589 (1981) ..... *passim*

Mansell v. Mansell, 490 U.S. 581, 109 S.Ct. 2023, 104 L.Ed.2d 675 (1989) 7

STATE COURTS

Hollyfield v. Hollyfield, 618 So.2d 1303 (Miss. 1993) 8

Knowles v. Knowles, 811 S.W.2d 709 (Tex. App. 1991) 8

Menard v. Menard, 460 So.2d 751 (La. App. 3 Cir. 1984) 9

Mings v. Mings, 841 S.W.2d 267 (Mo. App. 1992) 8

Rohring v. Rohring, 441 So.2d 485 (La. App. 2 Cir. 1983) 9

Rose v. Rose, 483 So.2d 181 (La. App. 2 Cir. 1986), *affirmed on appeal after remand*, 535 So.2d 1167 (La. App. 2 Cir. 1988) 9

Sims v. Sims, 358 So.2d 919 (La. 1978) 6

Swope v. Mitchell, 324 So.2d 461 (La. App. 3 Cir 1975) 2

White v. White, 623 So.2d 31 (La. App. 1 Cir. 1993) 8, 13, 14, 18

STATUTES

10 U.S.C. § 1408(c)(1) ..... *passim*

TABLE OF AUTHORITIES – Continued

Page

COURT RULES

Sup. Ct.R. 10.1 7

LEGISLATIVE HISTORY

H.R. Rep. No. 665, section 555, 101st Cong., 2nd Sess., *reprinted in* 1990 U.S.C.C.A.N. 3004-05.....4, 10

V. REFERENCE TO OFFICIAL AND UNOFFICIAL OPINIONS BELOW

Judgment from the Ninth Judicial District Court, Rapides Parish, Louisiana, Honorable Judge B. Dexter Ryland, May 13, 1993.

Reasons for Judgment from the Ninth Judicial District Court, Rapides Parish, Louisiana, Honorable Judge B. Dexter Ryland, February 12, 1993.

Meche v. Meche, 93-1045 (La. App. 3 Cir. 4/6/94); 635 So.2d 614.[1] Meche v. Meche, 94-1174 (La. 6/24/94) [denial of writs].

VI. JURISDICTION OF THE COURT

The jurisdiction of this Honorable Court is established by 28 U.S.C. § 2101(c). Petitioner's Application for Writs of Certiorari, or Review, was denied by the Louisiana Supreme Court on June 24, 1994.

VII. APPLICABLE STATUTE

10 U.S.C. § 1408(c)(1):

> Subject to the limitations of this section, a court may treat disposable retired pay payable to a member for pay periods beginning after June 25,

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[1] This citation follows the form specified by Order of the Louisiana Supreme Court dated December 17, 1993, requiring that opinions issued by the Louisiana Supreme Court and the Louisiana Courts of Appeal following December 31, 1993, be cited according to a uniform public domain citation form with a parallel citation to West's Southern Reporter.

1981, either as property solely of the member or as property of the member and his spouse in accordance with the law of the jurisdiction of such court. A court may not treat retired pay as property in any proceeding to divide or partition any amount of retired pay of a member as the property of the member and the member's spouse or former spouse if a final decree of divorce, dissolution, annulment, or legal separation (including a court ordered, ratified, or approved property settlement incident to such decree) affecting the member and the member's spouse or former spouse (A) was issued before June 25, 1981, and (B) did not treat (or reserve jurisdiction to treat) any amount of retired pay of the member as property of the member and the member's spouse or former spouse.

VIII. STATEMENT OF THE CASE

A. Statement of the Facts:

In 1958, Norwood Meche and Daisy Thibodeaux were married in Louisiana, a community property state which by the mid-1970s treated military retired pay as community property in which each spouse owned an undivided one-half interest.[2] In 1962, Norwood Meche joined the United States Air Force; he served his country with honor for thirty years and retired a Colonel.

On May 4, 1981, while Norwood Meche was still on active duty, a judgment of legal separation was granted in favor of Daisy Thibodeaux Meche in the Ninth Judicial District Court, Rapides Parish, Louisiana. An appeal was

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[2] *Swope v. Mitchell*, 324 So.2d 461 (La. App. 3 Cir. 1975).

taken. On February 3, 1982, the Louisiana Third Circuit Court of Appeal affirmed the grant of a judgment of separation but reversed the judgment in favor of Daisy Thibodeaux Meche, granting it instead to Norwood Meche. In all other respects, the trial court's judgment of May 4, 1981, was affirmed. *Meche v. Meche*, 410 So.2d 1174 (La. App. 3 Cir. 1982).

On June 25, 1981, a month after the trial court rendered the judgment of separation, this Honorable Court handed down its decision in *McCarty v. McCarty*, 453 U.S. 210, 101 S.Ct. 2728, 69 L.Ed.2d 589 (1981), holding that (1) federal law preempts state law in the classification of military retired pay for purposes of dividing marital property, and (2) as a matter of federal law, military retired pay belongs entirely to the retiree and not to the former spouse.

In October, 1981, four months after *McCarty* was handed down, the Meches returned to the Ninth Judicial District Court, Rapides Parish, Louisiana, and obtained a judgment of absolute divorce based upon having lived separate and apart for over one year. Later that month, they entered into a partial community property settlement which did not divide military retired pay and did not reserve the right to litigate the issue of military retired pay in the future. The settlement was apparently denominated "partial" because the parties agreed they would not immediately partition a piece of community real estate; no other issues were reserved for future disposition.

The next year, Congress responded to *McCarty v. McCarty* by enacting the Uniformed Services Former

Spouses Protection Act (USFSPA), Pub.L. 97-252, Title X, § 1002(a), 96 Stat. 730 (Sept. 8, 1982), codified at 10 U.S.C. § 1408. This federal law allows courts to treat retired pay either as property solely of the member or as property of the member and his spouse in accordance with state law under certain circumstances. See 10 U.S.C. § 1408(c)(1) [first sentence].

Congress' action prompted re-litigation of many claims which had been decided by judgment or agreement under the *McCarty* rule. In 1990, Congress declared it did not intend such wholesale re-litigation[3] and attempted to put a stop to the practice by enacting Pub.L. 101-510, § 555(a), 104 Stat. 1569 (Nov. 5, 1990), amending 10 U.S.C. § 1408(c)(1). The 1990 amendment adds a sentence, the proper interpretation of which is at the heart of this dispute:

> A court may not treat retired pay as property in any proceeding to divide or partition any amount of retired pay of a member as the property of the member and the member's spouse or former spouse if a final decree of divorce, dissolution, annulment, or legal separation (including a court ordered, ratified, or approved property settlement incident to such decree) affecting the member and the member's spouse or former spouse (A) was issued before June 25, 1981, and (B) did not treat (or reserve jurisdiction to treat) any amount of retired pay of the member as property of the member and the member's spouse or former spouse.

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[3] H.R. Rep. No. 665, section 555, 101st Cong., 2nd Sess., *reprinted in* 1990 U.S.C.C.A.N. 3004-05.

Section 555(e) of Pub.L. 101-510, as amended Pub.L. 102-190, Div. A, Title X, § 1062(a)(1), 105 Stat. 1475 (December 5, 1991), provided that the effective date of the amendment quoted immediately above is November 5, 1990.

In 1991, Daisy Thibodeaux, now remarried, filed a "Petition for Partial Partition of Community Property and for Money Judgment" in the Ninth Judicial District Court, Rapides Parish, Louisiana, asserting Colonel Meche's imminent military retired pay is community property and seeking a partition of the asset.

In 1992, Colonel Meche, also remarried, retired from the Air Force and began receiving his military retired pay.

On November 3, 1992, the trial judge ruled on cross-motions for summary judgment and held Colonel Meche's military retired pay was not his separate property but was community property to be split with Daisy Thibodeaux according to a particular formula.

B. Course of Proceedings and Disposition in Courts Below

1. The Trial Court:

Daisy Thibodeaux's "Petition for Partial Partition of Community Property and for Money Judgment" was filed in the Ninth Judicial District Court, Rapides Parish, Louisiana, docket number 118,036, on August 23, 1991.

Norwood Meche responded by filing exceptions (similar to a motion to dismiss under rule 12 of the Federal Rules of Civil Procedure). The exceptions were brought on for hearing and overruled. The Honorable F.

Rae Swent, district judge, signed the judgment overruling the exceptions on July 9, 1992. Later that month, Colonel Meche filed an answer to the "Petition for Partial Partition of Community Property and for Money Judgment."

On October 27, 1992, Daisy Thibodeaux filed a motion for summary judgment. Soon thereafter, Colonel Meche filed a countervailing motion for summary judgment. On November 30, 1992, the trial court heard argument on both motions at the same time. On February 12, 1993, the Honorable B. Dexter Ryland, the trial judge, signed Reasons for Judgment, ruling that Colonel Meche's military retired pay is community property. On May 13, 1993, Judge Ryland signed a judgment decreeing a partition of the community property according to the formula set forth in the Louisiana Supreme Court case of *Sims v. Sims*, 358 So.2d 919 (La. 1978).

On June 3, 1993, the district judge signed an order granting a suspensive appeal to Colonel Meche.

2. Appeals Courts

On April 6, 1994, the Louisiana Third Circuit Court of Appeal affirmed the trial court's judgment in a reported opinion, *Meche v. Meche*, 93-1045 (La. App. 3 Cir. 4/6/94); 635 So.2d 614.

Colonel Meche applied for writs of certiorari, or review, to the Louisiana Supreme Court. Writs were denied on June 24, 1994, *Meche v. Meche*, 94-1174 (La. 6/24/94).

IX. ARGUMENT AND AUTHORITIES

A. Review on Writ of Certiorari is Proper.

The issue presented in this application fits the criterion of Supreme Court Rule 10.1 (c): "[A] state court . . . has decided an important question of federal law which has not been, but should be, settled by this Court . . . "

Proper statutory interpretation of the Uniformed Services Former Spouses Protection Act (USFSPA)[4] presents an important federal question. This Court held in *McCarty v. McCarty*, 453 U.S. 210, 101 S.Ct. 2728, 69 L.Ed.2d 589 (1981), that federal law preempts state laws dealing with the classification of military retired pay for purposes of dividing marital property. Congress responded to the the decision by enacting USFSPA. One may assert USFSPA "legislatively overruled" *McCarty*, but the assertion would not be entirely accurate; this Court has already held in *Mansell v. Mansell* that USFSPA contains a specific and limited grant of jurisdiction to states, and in all other respects federal pre-emption still obtains.[5]

Therefore, when a state court engages in statutory interpretation of the language of 10 U.S.C. § 1408(c)(1) and the opinion is published in the West reporter system, it becomes part of a national body of federal law, with national impact.

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[4] 10 U.S.C. § 1408.

[5] *Mansell v. Mansell*, 490 U.S. 581, 109 S.Ct. 2023, 104 L.Ed.2d 675 (1989).

Additionally, proper interpretation of laws dealing with military retired pay has already been identified by this Honorable Court as vital to the national interest. In *McCarty*, the Court said, "[I]t is manifest that the application of community property principles to military retired pay threatens grave harm to 'clear and substantial' federal interests."[6] The Court also said the community property division of military retired pay has the potential to frustrate the two major goals Congress seeks to achieve by enacting the military retirement system: "to provide for the retired service member, and to meet the personnel management needs of the active military forces."[7] Enforcing proper interpretation of USFSPA's provisions by state courts is necessarily as vital to the national interest today as was addressing the pre-*McCarty* conflict between community property laws and the congressionally enacted military retirement system in 1981. Granting a writ of certiorari was proper in *McCarty*, was proper in *Mansell*, and is proper here.

The correct interpretation of USFSPA's 1990 amendment, governing which pre-*McCarty* cases may be relitigated, is at issue here. There are now reported state court decisions which are in direct conflict. An opinion from the Louisiana First Circuit Court of Appeal[8] interprets the statute as imposing two requirements, and some appellate courts interpret the statute the same way.[9] By

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[6] 453 U.S. at 232; 101 S.Ct. at 2741.

[7] 453 U.S. at 233-34; 101 S.Ct. at 2741.

[8] *White v. White*, 623 So.2d 31 (La. App. 1 Cir. 1993).

[9] See *Hollyfield v. Hollyfield*, 618 So.2d 1303 (Miss. 1993); *Mings v. Mings*, 841 S.W.2d 267 (Mo. App. 1992); *Knowles v. Knowles*, 811 S.W.2d 709 (Tex. App. 1991).

contrast, in the instant case the Louisiana Third Circuit Court of Appeal has interpreted the statute as imposing three requirements, and other Louisiana decisions have also done so.[10] Perhaps it would have been better for the Louisiana Supreme Court to resolve the conflict within the state and interpret the statute correctly, but that court's failure to take up the issue does not make it of any less importance nationally.

The growing line of reported Louisiana decisions which incorrectly interpret the statute, and the Louisiana Supreme Court's disinclination to take up the issue, appear to be the latest manifestation of an ongoing state-federal power struggle over military retired pay, and this Court should step in to resolve the issue.

The state-federal struggle is the same one identified by the Court in *McCarty*: on the federal side, Congress enacted the military retirement system to help meet the national need for an efficient and effective military; on the state side, state courts are hostile to any federal encroachment in the fields of domestic relations and marital property rights.

The Louisiana courts' recent actions are remarkably similar to the collective actions of California courts in the

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[10] More than one reported decision incorrectly interprets 10 U.S.C. § 1408(c)(1). See, e.g., *Rohring v. Rohring*, 441 So.2d 485 (La. App. 2 Cir. 1983); *Rose v. Rose*, 483 So.2d 181 (La. App. 2 Cir. 1986), *affirmed on appeal after remand*, 535 So.2d 1167 (La. App. 2 Cir. 1988); *Menard v. Menard*, 460 So.2d 751 (La. App. 3 Cir. 1984).

mid-1980's which prompted Congress to amend the statute in 1990. The House Report[11] accompanying the 1990 amendment sharply criticizes the California court decisions in the 1980s which held the courts had continuing jurisdiction which enabled them to re-open final divorce or separation decrees for the purpose of partitioning the assets of the former community. Although such proceedings are apparently a normal feature of California practice and are assuredly a normal feature of Louisiana practice, Congress did not approve:

> The committee is concerned because some state courts have been less than faithful in their adherence to the spirit of the law. The reopening of divorce cases finalized before the Supreme Court's decision in *McCarty v. McCarty* that did not divide retired pay continues to be a significant problem. Years after final divorce decrees have been issued, some state courts, particularly those in California, have reopened cases (through partition actions or otherwise) to award a share of retired pay. Although Congress has twice stated in report language that this result was not intended, the practice continues unabated. *Such action is inconsistent with the notion that a final decree of divorce represents a final disposition of the marital estate.*[12]

The legislative history clearly shows congressional intent underlying the 1990 amendment to 10 U.S.C. § 1408(c)(1) includes the intent to enact pre-emptive federal law to prevent re-litigation of pre-*McCarty* divorce

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[11] H.R. Rep. No. 665, section 555, 101st Cong., 2nd Sess., *reprinted in* 1990 U.S.C.C.A.N. 3004-05.

[12] *Id.* at 3005 [emphasis added].

decrees on the grounds that the original decree did not partition the community. Put another way, even if state practice is to grant the divorce first and come back later to partition the community, pre-emptive federal law prevents that method of dividing military retired pay if the divorce decree is issued pre-*McCarty* and has no specific reservation.

Ironically, the courts below and other Louisiana courts have used the very language of the 1990 amendment to conclude they are allowed to do exactly what Congress has forbidden. It is now proper for this Court to correct the error and ensure proper interpretation nationally of a federal statute implicating vital national interests.

B. Petitioner's military retired pay cannot be classified as community property, because under the correct interpretation of 10 U.S C. § 1408(c)(1), the issue may not now be litigated.

1. The statute prevents litigating marital property issues when a final judgment of separation was issued before June 25, 1981, and when the judgment neither divides the marital property nor reserves the right to do so in the future.

The plain language of the 1990 amendment to 10 U.S.C. § 1408(c)(1) says marital property issues affecting military retired pay may not be litigated if a final decree of separation or divorce:

> . . . (A) was issued before June 25, 1981, and (B) did not treat (or reserve jurisdiction to treat) any

> amount of retired pay of the member as property of the member and the member's spouse or former spouse.

The statute lists two characteristics of the final decree of separation, clearly labeled (A) and (B). The trial judge and the Louisiana Third Circuit Court of Appeal erroneously added a third requirement: that the decree itself must include within its four corners a court ordered, ratified, or approved property settlement incident to the decree. The courts below did not find statutory language labeled "(C)" to support their position, because the statute does not contain any clause or phrase labeled "(C)." Instead, the courts below took a parenthetical phrase in the statute and elevated it in status to a third requirement:

> A court may not treat retired pay as property in any proceeding to divide or partition any amount of retired pay of a member as the property of the member and the member's spouse or former spouse if a final decree of divorce, dissolution, annulment, or legal separation *(including a court ordered, ratified, or approved property settlement incident to such decree)* affecting the member and the member's spouse or former spouse (A) was issued before June 25, 1981, and (B) did not treat (or reserve jurisdiction to treat) any amount of retired pay of the member as property of the member and the member's spouse or former spouse. [emphasis added]

The courts below ignored the plain language of the statute and in effect rewrote the statute to support a desired outcome in a particular case. The correct

approach, however, is to apply the statute as written and leave amendments to Congress and the political process.

The statute was correctly interpreted by the Louisiana First Circuit Court of Appeal in *White v. White*, 623 So.2d 31 (La. App. 1 Cir. 1993). In *White*, a wife sued her former husband, after a divorce, seeking recognition of her community interest in her husband's military retired pay. The trial court denied benefits for the wife. She appealed.

The Louisiana First Circuit Court of Appeal held that when the issue of how to characterize military retired pay is not addressed or reserved in a pre-*McCarty* judgment of separation or divorce, the wife is precluded thereafter from seeking the community portion of her husband's military retired pay.[13] The court denied the wife's claim based on the very preemption provisions of the USFSPA upon which Colonel Meche relies here:

> The intent of Congress by amending 10 U.S.C. § 1408(c)(1) was to prevent relitigation of cases concluded prior to *McCarty*. The clear wording of this federal preemption statute requires a specific treatment of military retirement benefits in the division of the community or a specific reservation of jurisdiction to treat military retirement benefits as community property. Under general principles of Louisiana law, once a court obtains jurisdiction in a divorce proceeding, it retains control over incidental matters connected with the original proceeding. However, it appears that the operation of general

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[13] *White v. White, supra*, 623 So.2d at 34.

> principles of continuing jurisdiction will not satisfy the federal statutory requirement of 10 U.S.C. § 1408(c)(1).[14]

The First Circuit properly rejected the spouse's vague appeal to "equity" and noted that at the time of separation, the wife would certainly be aware that her husband would, at some future date, become eligible for military retired pay, yet she and her lawyer failed to litigate the issue or obtain a judgment which reserved the right to do so later.[15]

The conflict between *White v. White* and the instant case comes sharply into focus when one recognizes that, in *White*, the community property of the parties had never been previously judicially partitioned. The Whites were separated in 1966 and divorced in 1967, and Mrs. White filed suit for recognition of her alleged community interest in Mr. White's military retired pay in 1989.

Thus, the *White* case and the instant case present essentially the same scenario:

- there is a final judgment of separation or divorce before June 25, 1981;
- the judgment of separation or divorce contains no decree to partition the community;
- after June 25, 1981, the parties attempt to partition the community.

The only important difference between the cases is that the First Circuit in *White* correctly interpreted the

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[14] *Id.*

[15] *Id.*

federal statute but the Third Circuit in the instant case did not.

In summary, the 1990 amendment to 10 U.S.C. § 1408(c)(1) adds the second sentence to the statute. As a matter of federal law, the second sentence does not allow a spouse of a retired member of the United States Armed Forces to claim ownership of a portion of the veteran's military retired pay if there is a final judgment of separation or divorce granted before June 25, 1981, and the judgment does not either divide the retired pay or reserve jurisdiction to do so later. The parenthetical phrase in the statute's second sentence merely means that when one is determining whether the old judgment divides the military retired pay or reserves the right to do so in the future, one must refer not only to the piece of paper labeled "Judgment," but one must also refer to any incidental order attached to the "Judgment."

2. Colonel Meche's judgment of separation is a final judgment of separation issued before June 25, 1981, and the judgment neither divides the marital property nor reserves the right to do so in the future.

The Louisiana Third Circuit Court of Appeal specifically held[16] the Meche judgment of legal separation was issued before June 25, 1981, and was a final decree under Louisiana law, thus meeting requirement (A) of the second sentence of 10 U.S.C. § 1408(c)(1). Daisy Thibodeaux

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[16] *Meche v. Meche, supra,* at 4-5; 635 So.2d at 616.

took no appeal from the Third Circuit's judgment, and therefore this portion of the ruling is final.

The Meche judgment of legal separation also meets requirement (B), because the Meche judgment of legal separation[17] "did not treat (or reserve jurisdiction to treat) any amount of retired pay of the member as property of the member and the member's spouse or former spouse," and because there was no order incident to the judgment of legal separation which either divided Colonel Meche's military retired pay or reserved the right to do so in the future. The record does contain a "Partial Community Property Settlement,"[18] but the only matter reserved in that document for later disposition is partition of community real estate located in Lafayette, Louisiana. The document does not mention military retired pay.

3. Therefore, Colonel Meche's military retired pay cannot be treated as community property.

As of June 25, 1981, the classification of military retired pay as separate property or as community property is a matter of federal law and is governed by a clearly written statute.

When the statute is applied as written, it prevents Colonel Meche's retired pay from being classified as community property of the community which formerly existed between him and Daisy Thibodeaux, because:

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[17] Reprinted in the Appendix, page App. 24.

[18] Reprinted in the Appendix, page App. 21.

(1) in the divorce between Norwood Meche and Daisy Thibodeaux, there was a judgment of separation rendered before June 25, 1981; and

(2) the judgment did not classify the military retired pay as community property, and no order incident to the judgment classified the military retired pay as community property or reserved the right to do so in the future.

X. CONCLUSION

State courts must apply the Uniformed Services Former Spouses Protection Act and have issued conflicting opinions interpreting the second sentence of 10 U.S.C. § 1408(c)(1). The conflict affects every state court in the United States, because the Act is applied nationally as a matter of federal law.

Through the mechanism of the 1990 amendment to USFSPA, Congress intended to prevent courts from doing exactly what was done in this case.

Under the correct statutory interpretation, the second sentence of 10 U.S.C. § 1408(c)(1) does not allow a spouse of a retired member of the United States Armed Forces to claim ownership of a portion of the veteran's military retired pay if there is a final judgment of separation or divorce granted before June 25, 1981, and the judgment does not either divide the retired pay or reserve jurisdiction to do so later. The parenthetical phrase in the statute's second sentence means that when one is determining whether the old judgment divides the military retired pay or reserves the right to do so in the future, one must refer not only to the piece of paper

labeled "Judgment," but one must also refer to any incidental order attached to the "Judgment."

Under the correct interpretation of the statute, Daisy Thibodeaux is not allowed to claim ownership of any portion of the military retired pay of Colonel Norwood Meche, because there was a judgment of separation rendered before June 25, 1981; the judgment did not classify the military retired pay as community property or reserve the right to do so in the future; and, the judgment did not have any order attached to it which either classified the military retired pay as community property or reserved the right to do so in the future.

Wherefore, petitioner prays that This Honorable Court (1) grant this application for writ of certiorari, and: (2) reverse the judgment in favor of Daisy Thibodeaux Meche and render judgment in favor of Colonel Norwood Meche, dismissing Daisy Thibodeaux Meche's "Petition for Partial Partition of Community Property and for Money Judgment" at her cost and prejudice, or, alternatively: (3) reverse the judgment in favor of Daisy Thibodeaux Meche, settle the dispute over statutory interpretation in favor of the plain wording of the statute as espoused in *White v. White*, and remand to the Ninth

Judicial District Court, Rapides Parish, Louisiana, for further proceedings, assessing costs against respondent.

Respectfully submitted,

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NUMBER 93-1045

APR 06 1994

COURT OF APPEAL, THIRD CIRCUIT
STATE OF LOUISIANA

DAISY THIBODEAUX MECHE

Plaintiff – Appellee

VERSUS

NORWOOD JOSEPH MECHE

Defendant – Appellant

Appeal from the Ninth Judicial District Court for the Parish of Rapides, State of Louisiana, the Honorable B. Dexter Ryland, District Judge, presiding.

Before GUIDRY, LABORDE, and *CULPEPPER, Judges.

CULPEPPER, J.

This is an action to partition the community assets of the parties. At issue is whether the defendant's military retirement pay is community property.

The district court granted summary judgment in the plaintiff's favor, holding that the military retirement benefits were community property. The defendant appeals the trial court's ruling on the following specifications of error.

> "It is respectfully submitted that the trial court erred to defendant/appellant's substantial prejudice:

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*Honorable William A. Culpepper participated in this decision by appointment of the Louisiana Supreme Court as Judge Pro Tempore.

1. In finding that his military retirement benefits were community property;

2. In failing to find that federal law had preempted state law insofar as Daisy Thibodeaux Meche's claim is concerned;

3. In erroneously finding that, to bar her claim, the judgment of separation between the parties had to include a "court ordered, ratified, or approved property settlement";

4. In relying on the judgment of divorce of October 9, 1981 and not the judgment of separation on May 4, 1981 as the "final decree" under 10 U.S.C. Section 1408(c)(1);

5. In failing to grant Norwood Meche's motion for summary judgment."

GENERAL FACTS

The parties were married on December 20, 1958, in Lafayette, Louisiana. The defendant joined the U.S. Air Force in 1962. On May 4, 1981, the parties were legally separated by judgment of the Ninth Judicial District Court for the Parish of Rapides. They were divorced by judgment of that court on October 9, 1981. On October 31, 1981, they entered into a partial community property settlement that did not include the defendant's military retirement pay which had not yet accrued. In 1992 the defendant retired from the Air Force and began receiving his retirement benefits. Shortly before the defendant's retirement, the plaintiff sought partition of the retirement benefits. Both parties moved for summary judgment. After hearing arguments on November 30, 1992, the trial court rendered judgment in favor of the plaintiff, finding

that the military retirement benefits were community property and that the plaintiff was, therefore, entitled to a part of those benefits.

LAW AND ANALYSIS

Before 1981, Louisiana treated military retirement pay as community property. In that year the U.S. Supreme Court ruled, in *McCarty v. McCarty*, 453 U.S. 210, 101 S.Ct. 2728, 69 L.Ed.2d 589 (1981), decided June 25, 1981, that military retirement pay was not community property. *McCarty's* effect was short-lived because Congress, in 1983, enacted the Uniformed Services Former Spouses Protection Act (USFSPA), which consisted of amendments to 10 U.S.C. § 1408. Paragraph (c)(1) of that section now reads as follows:

> (c) **Authority for court to treat retired pay as property of the member and spouse.** – (1) Subject to the limitations of this section, a court may treat disposable retired pay payable to a member for pay periods beginning after June 25, 1981, either as property solely of the member or as property of the member and his spouse in accordance with the law of the jurisdiction of such court. A court may not treat retired pay as property in any proceeding to divide or partition any amount of retired pay of a member as the property of the member and the member's spouse or former spouse *if a final decree of divorce, dissolution, annulment, or legal separation (including a court ordered, ratified, or approved property settlement incident to such decree) affecting the member and the member's spouse or former spouse (A) was issued before June 25, 1981, and (B) did not treat (or reserve jurisdiction to treat) any*

amount of retired pay of the member as property of the member and the member's spouse or former spouse. (Emphasis supplied.)

When this amendment was originally enacted, it completely abrogated the ruling in *McCarty*, supra, that military retirement benefits were not community property. Because of the reopening of cases which were decided prior to the enactment of the USFSPA, Congress added the second sentence of 10 U.S.C. § 1048(c)(1). That sentence is designed to limit the retroactivity of *McCarty* by preventing former spouses from reopening a case in which there was a property settlement, prior to the *McCarty* decision, that did not treat military retirement benefits as community property or did not reserve jurisdiction to treat such benefits as community property.

The U.S. Supreme Court's ruling in *McCarty*, therefore, only affects those cases in which the court issued, before June 25, 1981, a final decree of divorce, dissolution, annulment or legal separation that includes a court ordered, ratified, or approved property settlement incident to such decree and that did not treat (or reserve jurisdiction to treat) any amount of retired pay as community property. Appellant urges that the case at bar is a pre-*McCarty* case by virtue of the judgment of separation that was issued by the Ninth Judicial District Court on May 4, 1981, and is therefore governed by the ruling in *McCarty*.

To determine whether the appellant's military retirement pay may be treated as community property, this court must first determine whether the judgment of separation issued on May 4, 1981, is the type of final decree that prevents such treatment under 10 U.S.C. § 1408(c)(1),

supra. Reading that statute reveals four requirements of a judgment or decree that, if met, will prevent the application of Louisiana's community property laws to military retirement benefits.

The first requirement is that the decree must be one of divorce, dissolution, annulment, or legal separation. The decree at issue is one of legal separation.

The second requirement is that the decree must have been issued before June 25, 1981, a requirement clearly fulfilled, because the date of issue was May 4, 1981.

The third requirement is that the decree of divorce, dissolution, annulment, or legal separation must be a "final decree" as defined by 10 U.S.C. § 1408(a)(3), which states:

> (3) "Final decree" means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for taking such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

The judgment of separation that was issued by the Ninth Judicial Court on May 4, 1981, is a final decree. It is a decree from which a timely appeal was taken and such appeal was finally decided under the laws of Louisiana, specifically, Louisiana Code of Civil Procedure Articles 2081 through 2167.

The final requirement is that the decree must include a court ordered, ratified, or approved property settlement incident to such decree. The appellant argues that no

such requirement exists. His argument is based upon the fact that this requirement is placed between parenthesis [sic] in the second sentence of § 1408(c)(1). In support of his argument, appellant urges the court to adopt an interpretation described in his brief as follows:

> "In the 1990 amendment, it is significant that the terms "including a court ordered, ratified, or approved property settlement incident to such decree" are in parenthesis. The obvious intent of the parenthesis is merely to point out that the amendment is inclusive to such decrees *in addition* to a decree which does not contain such provisions."

This interpretation is not logically supported by the parenthetic language in § 1408(c)(1). The words "incident to such decree" obviate the appellant's proffered interpretation.

Such interpretation is also not supported by the intent of Congress in its amending § 1408(c)(1) in 1990 to add the second sentence. With this amendment, Congress intended to prevent the reopening of cases that were decided before *McCarty* and that did not treat military retirement benefits as community property or reserve the right to so treat it. See *Dunham v. Dunham*, 602 So.2d 1139 (La. App. 1st Cir. 1992). The apparent purpose of the amendment, therefore, is to prevent the re-litigation of community property issues concerning military retirement benefits that were resolved prior to the *McCarty* ruling. Thus, where there is a pre-*McCarty* final decree that divides the property of former spouses and that does

not either find that military retirement benefits are community property or reserve jurisdiction to treat such benefits as community property, the decree cannot be disturbed by the retrospective application of § 1408(c)(1).

Under the interpretation urged by the appellant, a decree of legal separation issued before June 25, 1981, that did not deal with any property of the spouses will act to bar the determination of the status of military retirement benefits as community property. This ignores the requirement of § 1408(c)(1) that there also be a court ordered property settlement which treats, or reserves jurisdiction to treat retirement pay as community property. Since the judgment of separation issued on May 4, 1981, did not include a court ordered, ratified, or approved property settlement of any kind, the court may treat the appellant's military retirement benefits as community property.

CONCLUSION

All of the appellant's specifications of error rest upon the premise that the lower court misinterpreted or misapplied 10 U.S.C. § 1408(c)(1). Because we find that the trial court correctly interpreted and applied that statute, the appellant's specifications of error have no merit.

DECREE

For the foregoing reasons, the judgment of the trial court is affirmed at the cost of Norwood Joseph Meche.

AFFIRMED.

CIVIL SUIT NUMBER 118,036
NINTH JUDICIAL DISTRICT COURT
IN AND FOR THE PARISH OF RAPIDES
STATE OF LOUISIANA

DAISY THIBODEAUX MECHE

V.

NORWOOD JOSEPH MECHE

FILED: May 13, 1993 /s/ Sandra Harper DY.CLK.

JUDGMENT

This matter having come on for hearing before the court on cross motions for summary judgment by the parties; the motions were argued on November 30, 1992;

Present in court were Chris J. Roy, Jr. for Daisy Thibodeaux Meche; and Dee D. Drell for Norwood Joseph Meche;

The court when after considering the pleadings, evidence, and arguments of counsel, and pursuant to written reasons rendered on February 12, 1993 made the following specific findings:

1. Plaintiff and defendant were married on December 20, 1958 in Lafayette, Louisiana and were separated by a judgment of this court on May 4, 1981; that the parties were divorced by judgment of this court on October 9, 1981;

2. That the parties entered into a partial settlement of community property on October 31, 1981 which did not include the military retirement pay of Norwood Joseph Meche;

3. Since petitioner and defendant were married in the State of Louisiana, the community property regime attached to the property acquired during the marriage between plaintiff and defendant, including the military retirement pay at issue;

4. That the judgment of separation of May 4, 1981 did not constitute a "final" judgment within the meaning of 10 U.S.C. 1408(a)(3) prior to June 25, 1981;

5. That the judgment of separation signed on May 4, 1981 did not include a court ordered, ratified, or approved property settlement;

6. Norwood Joseph Meche entered active duty in the United States Air Force on July 8, 1962 and retired from the United States Air Force on August 1, 1992;

7. Daisy Thibodeaux Meche owns a one-half undivided interest in and to Norwood Joseph Meche's military retirement since August 1, 1992 according to the following formula pursuant to 10 U.S.C. 1408(D):

Portion of pension attributable to creditable service during existence of community (Date of entry in service is July 8, 1962 until May 4, 1981)
_____ X 1/2 = Portion owed to Daisy Thibodeaux Meche

Pension attributable to total creditable service.

8. That the foregoing formula is in accordance with current law of *Sims v. Sims*, 358 So.2d 919 (La. 1978);

9. The rights of the service member pursuant to the Soldiers and Sailors Civil Relief Act of 1940 have been protected herein;

10. Norwood Joseph Meche received his first military retirement check from the Air Force on September 1, 1992 in the amount of Four Thousand One Hundred Ten and No/100 ($4,110.00) Dollars, and since that time, on or about December 19, 1992, received a cost of living adjustment wherein his check is now approximately Four Thousand Two Hundred Six and No/100 ($4,206.00) Dollars;

11. Under the *Sims* formula, it was determined that plaintiff is entitled to thirty-one (31%) percent of the military retirement pay of defendant.

12. The social security numbers of the parties are as follows:
    1) Daisy Thibodeaux Meche 434-56-9548
    2) Norwood Joseph Meche 435-58-2660

Accordingly, it is ORDERED, ADJUDGED AND DECREED that the court decrees a partition of the undivided portion of Norwood Joseph Meche's military retirement benefits according to the foregoing formula;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that payment of Daisy Thibodeaux Meche from Norwood Joseph Meche's retirement constitutes a division of property and that payment made to her is to be made from his disposable retired pay.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all rights of Norwood Joseph Meche were complied with pursuant to the Soldiers and Sailor's Civil Relief Act.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Daisy Thibodeaux Meche is entitled to thirty-one (31%) percent of Norwood Joseph Meche's military retirement pay pursuant to 10 U.S.C. 1408(D) which constitutes the percentage under the *Sims* formula mentioned hereinabove;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Norwood Joseph Meche be cast with all court costs in this matter.

JUDGMENT RENDERED AND SIGNED on this 13 day of May, 1993.

/s/ Illegible
JUDGE

Review – All Rights to Appeal Reserved.

GOLD, WEEMS, BRUSER, SUES & RUNDELL

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Attorney for Norwood Joseph Meche

CHRIS J. ROY, JR.
(A LAW CORPORATION)

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Attorney for Daisy Thibodeaux Meche

CIVIL SUIT NUMBER 118,036

DAISY THIBODEAUX MECHE	NINTH JUDICIAL DISTRICT COURT
VERSUS	
NORWOOD JOSEPH MECHE	PARISH OF RAPIDES
	STATE OF LOUISIANA

WRITTEN REASONS FOR JUDGMENT

(Filed Feb. 12, 1993)

This matter came before the Court on reciprocal Motions for Summary Judgment.

The Court finds that the judgment of separation dated May 4, 1981 and relied upon by the defendant herein did not constitute a "final" judgment within the meaning of 10 U.S.C. 1408(a)(3) prior to June 25, 1981.

Additionally, the Court finds that 10 U.S.C. 1408(c)(1), requires that where a final decree of legal separation issued before June 25, 1981 is relied on, such decree must include a court ordered, ratified, or approved property settlement incident to such degree.

In the present matter, the judgment of separation signed on May 4, 1981, even if it were determined to constitute a "final" judgment, did not include a court ordered, ratified, or approved property settlement. Having found that the separation judgment did not include the necessary property settlement, the Court must look to the Judgment of Absolute Divorce which was signed on October 9, 1981. This date being subsequent to June 25, 1981, the Court finds that Louisiana's community property laws can be applied.

In accordance with these findings, the Court grants plaintiff's Motion for Summary Judgment and denies defendant's Motion for Summary Judgment with defendant being cast with all costs of these proceedings.

THUS DONE AND SIGNED this 12th day of February, 1993, at Alexandria, Rapides Parish, Louisiana.

/s/ B. Dexter Ryland
B. DEXTER RYLAND, JUDGE
NINTH JUDICIAL DISTRICT COURT
DIVISION "E"

MAILED TO:

Mr. Dee D. Drell
Attorney at Law
Post Office Box 6118
Alexandria, Louisiana 71307

Mr. Chris Roy, Jr.
Attorney at Law
Post Office Box 1911
Alexandria, Louisiana 71309

THE SUPREME COURT OF THE STATE OF LOUISIANA

DAISY THIBODEAUX MECHE

VS. NO. 94-C - 1174

NORWOOD JOSEPH MECHE

IN RE: Meche, Norwood Joseph; - Defendant(s); Applying for Writ of Certiorari and/or Review; to the Court of Appeal, Third Circuit, Number CA93-1045; Parish of Rapides 9th Judicial District Court Div. "E" Number 118,036

June 24, 1994

Denied.

ROO
WFM
JCW
HTL
PH
CDK

DENNIS, J. not on panel.

Supreme Court of Louisiana
June 24, 1994

/s/ Illegible
Clerk of Court
For the Court

PARTIAL SETTLEMENT OF COMMUNITY	:	UNITED STATES OF AMERICA
BY: NORWOOD J. MECHE	:	STATE OF LOUISIANA
AND: DAISY THIBODEAUX MECHE	:	PARISH OF RAPIDES

BE IT KNOWN, That on this 31st day of October, 1981, before me, the undersigned authority, a Notary Public, duly commissioned and qualified, in and for the Parish of Rapides, State of Louisiana, therein residing, and in the presence of the witnesses hereinafter named and undersigned:

PERSONALLY CAME AND APPEARED: NORWOOD J. MECHE and DAISY THIBODEAUX MECHE, both citizens and residents of Lafayette Parish, Louisiana who declared that they were legally separated by a judgment of the Ninth Judicial District Court on May 4, 1981 in suit Number 113,094 on its docket in proceedings entitled "Daisy Thibodeaux Meche versus Norwood J. Meche", and that they were judicially divorced by judgment of the Ninth Judicial District Court in and for Rapides Parish, Louisiana, dated October 9 1981, in suit number 118,036 of its docket in proceedings entitled "Norwood J. Meche versus Daisy Thibodeaux Meche"; that they now desire to *partially* settle and liquidate the community which formerly existed between them and that they have agreed to partially settle the same in the manner following, to-wit:

DAISY THIBODEAUX MECHE does hereby convey, transfer, set over, assign and deliver unto Norwood J.

Meche all of her rights, title and interest in and to the following property, to-wit:

IMMOVABLE PROPERTY:

1. A certain piece, parcel or tract of land, together with all buildings and improvements located thereon, and all right ways and privileges thereunto appertaining, being, lying and situated in the Parish of Rapides, State of Louisiana, and being more particularly described as Lot Eighteen (18) of Camellia Heights Subdivision as per plat thereof recorded in Plat Book 14, Page 155, Records of Rapides Parish, Louisiana, LESS and EXCEPT that triangular shaped tract of land sold to David Brewer by Deed dated December 26, 1973, recorded in Conveyance Book 828, page 515, records of Rapides Parish, Louisiana, and being described as beginning at a point where the line between Lots 18 and 19 intersects Camellia Lane, thence run along the common boundary between Lots 18 and 19 of said subdivision in an easterly direction the distance of 100 feet; thence turn left and run North 1.75 feet; thence turn left and run back to the point of beginning.

MOVABLE PROPERTY:

1. A curio stand;
2. A reel to reel Sony recorder;
3. All reels, except the personal recordings of the family;
4. His rings;
5. A Spanish bar;
6. A swet of swords;

7. Temple rubbings;
8. One oil painting of the three wine drinkers;
9. One macrame;
10. One green glass ball float;
11. One 1976 Chevrolet Corvette automobile, Serial Number 1237L65426558;
12. Five Bar Stools;
13. Korean folding mattress;
14. Personal clothing and father's watch.

Daisy Thibodeaux Meche does hereby agree to sign any deeds, assignments, endorsements, or note or to perform any other reasonable acts necessary to transfer her interest in that property shown hereinabove.

To have and to hold unto the said Norwood J. Meche, his heirs and assigns forever.

Norwood J. Meche does hereby specifically agree to pay the unpaid balance on that certain mortgage note from Norwood J. Meche and Daisy Thibodeaux Meche to First Federal Savings and Loan Association of Alexandria dated September 29, 1978 in the original principal amount of $42,250.00, secured by an Act of Mortgage on the hereinabove described immovable property between the same parties and of the same date and the same amount as the mortgage note hereinabove referred to, recorded on September 29, 1978, in Mortgage Book 836, Page 763 of the records of Rapides Parish, Louisiana.

In consideration whereof the said Norwood J. Meche does by these presents, convey, transfer, assign, set over and deliver unto Daisy Thibodeaux Meche all of his

rights, title and interest in and to the following described property, to-wit:

IMMOVABLE PROPERTY:

1. None.

MOVABLE PROPERTY:

1. Three Thousand and No/100 ($3,000.00) Dollars, cash in hand paid, the receipt of which is hereby acknowledged;

2. All of the furniture, applicances [sic] and fixtures, and all movables which formerly comprised the movable portion of the community, *WITH THE EXCEPTION* of the fourteen (14) items specifically set out hereinabove that is to be received by Norwood J. Meche:

3. One 1971 Stao. camper trailer, number 71SM660243.

4. One 1977 Ford Thunderbird automobile,

Norwood J. Meche agrees to sign any deeds, assignments, endorsements, or note or to perform any other reasonable acts necessary to transfer his interest in that property shown hereinabove.

To have and to hold unto the said Daisy Thibodeaux Meche, her heirs and assigns forever.

Each party to this agreement assumes the liability for paying any debts which that party has incurred.

Each party hereto agrees to assume the liability for paying any unpaid balance on any item received herein.

The parties hereto further agree that the assumption by Norwood J. Meche of the debt described hereinaboe [sic] does not create any resolutory condition and if it be construed for any reason to create any such resolutory conditions, the parties waive any and all rights under said resolutory conditions to declare the transfer as one to another null and void and/or rescind the transaction. The parties also agree that the declarations herein do not create any stipulation in favor of any third party.

As a result hereof, the parties hereto discharge each other from any further accounting to the community which formerly existed between them, the same being fully liquidated as above set forth *WITH THE EXCEPTION OF* the immovable property and all improvements thereon located at 124 Lena Street, Lafayette, Louisiana, which immovable property will continue at this time to be held in common between them. The immovable property is more fully described as follows:

> That certain lot of ground together with all improvements thereon, being known and designated as Lot 37 of the ELEMENTARY HEIGHTS SUBDIVISION. to the Parish of Lafayette, La., said lot having a front of 50 feet on Lena Street by a depth as shown on the official plat of survey of said subdivision prepared by Fred L. Colomb dated Nov. 6, 1953, and recorded under act number 295777, and being bounded North by Lena Street, South by the southern boundary of said subdivision, East by Lot 38, and west by lot 36, and being the same property acquired by vendor from the Lafayette Building Association by act number 355456.

THUS DONE AND PASSED, in duplicate originals, in my office in Alexandria, Rapides Parish, Louisiana, on the day, month and year hereinabove first written, in the presence of the undersigned competent witnesses, who have hereunto signed their names with the said appearers and me, Notary, after reading of the whole.

WITNESSES:

/s/ Illegible L. Conrad

/s/ Illegible

/s/ Illegible

/s/ Janey S. Illegible

/s/ Norwood J. Meche
NORWOOD J. MECHE

/s/ Daisy Thibodeaux Meche
DAISY THIBODEAUX MECHE

/s/ Harriet L. Brown (for signature of Daisy Thibodeaux Meche)
NOTARY PUBLIC in and for Rapides Parish, Louisiana.

STATE OF VIRGINIA

CITY OF HAMPTON

ON THIS 30th DAY OF October, 1981, PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED NOTARY PUBLIC IN AND FOR THE CITY OF HAMPTON, STATE OF VIRGINIA, Norwood Joseph Meche/// /////// WHO DID SUBSCRIBE his SIGNATURE(S) TO THE ATTACHED Partial Settlement of Community//// FOR THE STATE OF Louisiana. MY COMMISSION AS A NOTARY PUBLIC EXPIRES ON 30 Sep 84.

/s/ Mary Illegible
NOTARY PUBLIC

CIVIL SUIT NUMBER 118,036
DIVISION "E"

DAISY THIBODEAUX MECHE	NINTH JUDICIAL DISTRICT COURT
VERSUS	PARISH OF RAPIDES
NORWOOD JOSEPH MECHE	STATE OF LOUISIANA

STIPULATION

In conjunction with the two pending motions for summary judgment, it is stipulated by and between the parties that the following facts are true and that the attached documents are true and correct copies of the originals, and that the information contained in this stipulation and the attached documents may be considered by the court in lieu of certified copies, depositions or affidavits.

I. STIPULATED FACTS:

Norwood Joseph Meche and Daisy Thibodeaux Meche were married on December 20, 1958, in Lafayette, Louisiana. Norwood Joseph Meche entered active duty in the United States Air Force on July 8, 1962. Norwood Joseph Meche and Daisy Thibodeaux Meche were judicially separated by rendition of oral judgment on April 22, 1981, which judgment was reduced to writing and signed on May 4, 1981. That matter was appealed to the Third Circuit Court of Appeal which rendered its written opinion on February 3, 1982. A judgment of absolute divorce was rendered between the parties on October 9,

1981. A document entitled "Partial Settlement of Community" was executed on October 31, 1981 by Daisy Thibodeaux Meche and on October 30, 1981 by Norwood Joseph Meche. Norwood Joseph Meche retired from the United States Air Force on August 1, 1992.

II. STIPULATED DOCUMENTS, ATTACHED:

1. Judgment of Separation, May 4, 1981 in Suite No. 113,094

2. Opinion, Court of Appeal, February 3, 1992, in Suit No. 113,094 (Appeal Docket No. 8616)

3. Judgment of Absolute Divorce, October 9, 1981, in Suite No. 118,036

4. Partial Settlement of Community, October 31, 1981

5. Entire Ninth Judicial District Court suit record in Civil Suit No. 113,094

This stipulation is dated this 24th day of November, 1992.

Respectfully submitted,

LAW OFFICE OF CHRIS J. ROY

BY: _____

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711 Washington Street
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(318) 487-9537
Bar Roll Number: _____

ATTORNEYS FOR DAISY
THIBODEAUX MECHE

GOLD, WEEMS, BRUSER,
SUES & RUNDELL

BY: _____

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Bar Roll Number: 5074

ATTORNEYS FOR NORWOOD
JOSEPH MECHE

CIVIL SUIT NUMBER 113,094

DAISY THIBODEAUX MECHE	:	NINTH JUDICIAL DISTRICT COURT
VERSUS	:	PARISH OF RAPIDES
NORWOOD J. MECHE	:	STATE OF LOUISIANA
FILED: May 4, 1981	:	/s/ Linda L. Miller DY. CLK

JUDGMENT OF SEPARATION

This cause comes for trial pursuant to regular assignment, answer and reconventional demand having been filed to plaintiff's petition, when after considering the pleadings, evidence, offerings and testimony, the court being of the opinion that plaintiff has made due proof of her demands to the extent as hereinafter set out, and the law and the evidence being in favor thereof, for the reasons orally assigned, it is, therefore,

ORDERED, ADJUDGED AND DECREED that there be and a judgment is hereby rendered in favor of Daisy Thibodeaux Meche and against Norwood J. Meche, decreeing a separation from bed and board between the parties and forever dissolving the community of acquets and gains existing between them. It is further

ORDERED, ADJUDGED AND DECREED that Daisy Thibodeaux Meche be and she is hereby awarded the care, custody and control of the minor children, namely, (1) Donald Meche and (2) Sean Meche, awarding unto Norwood J. Meche reasonable visitation with the said children. It is further

ORDERED, ADJUDGED AND DECREED that Norwood J. Meche be and he is hereby condemned to pay to Daisy Thibodeaux Meche the sum of Seven Hundred Fifty and No/100 ($750.00) Dollars per month for alimony and child support. It is further

ORDERED, ADJUDGED AND DECREED that the judgment on rule dated April 21, 1980 be and the same is hereby perpetuated and, therefore, both Daisy Thibodeaux Meche and Norwood J. Meche be and they are hereby restrained, enjoined and prohibited from disposing of, alienating, pledging, mortgaging or in any manner encumbering any of the property owned by the community of acquets and gains existing between the parties, and, further, enjoining and prohibiting the parties litigant from withdrawing, disposing of converting any funds owned by the community of acquets and gains existing between plaintiff and defendant. It is further

ORDERED, ADJUDGED AND DECREED that the judgment on rule dated April 21, 1980 be and the same is hereby perpetuated and, therefore, it is ordered, adjudged and decreed that Norwood J. Meche will continue to pay the car note on the Ford Thunderbird and the house note on the family home. It is further

ORDERED, ADJUDGED AND DECREED that the judgment on rule dated April 21, 1980 be and the same is hereby perpetuated and, therefore, it is ordered, adjudged and decreed that Daisy Thibodeaux Meche, will receive One Hundred Thirty and No/100 ($130.00) Dollars, which is from rental property, and Forty-Four ($44.00) Dollars which is from a second mortgage note owned by the parties. It is further

ORDERED, ADJUDGED AND DECREED that the reconventional demand of Norwood J. Meche be and the same is hereby denied and dismissed. It is further

ORDERED, ADJUDGED AND DECREED that Norwood J. Meche be and he is hereby condemned to pay all costs in these proceedings. It is further

ORDERED, ADJUDGED AND DECREED that Norwood J. Meche and Daisy Thibodeaux Meche be and they are hereby declared as owners of all community property in the proportion of an undivided one-half interest each.

JUDGMENT RENDERED on April 22, 1981 as per the written Notice of Rendition of Oral Judgment dated April 22, 1981, at Alexandria, Rapides Parish, Louisiana.

JUDGMENT ~~READ AND~~ SIGNED, in Chambers, at Alexandria, Rapides Parish, Louisiana, this 4th day of May, 1981.

/s/ Richard E. Lee
JUDGE, NINTH JUDICIAL
DISTRICT COURT